

AGAR ADVISORY

UNITED STATES DEPARTMENT OF AGRICULTURE
OFFICE OF PROCUREMENT AND PROPERTY MANAGEMENT

AGAR Advisory No. 91A

Review of Advisory and Assistance Services and Certain Other Professional Services

1. PURPOSE

This Agriculture Acquisition Regulation (AGAR) Advisory supersedes AGAR Advisory 91, dated February 27, 2009, and establishes an interim procedure for Departmental oversight of proposed contracts for advisory and assistance services and certain other professional services exceeding \$500,000.

2. AUTHORITY

This advisory is issued pursuant to the memorandum from Secretary Tom Vilsack, dated January 22, 2009, entitled "Interim Procedures," and the Agriculture Acquisition Regulation (AGAR), Department of Agriculture Supplement to the Federal Acquisition Regulation (FAR), 48 CFR 401.371.

3. DEFINITIONS

- a) **"Advisory and assistance services,"** is fully defined in the Federal Acquisition Regulation (FAR) Subpart 37.2 and Subpart 2. These are services provided under contract by non-governmental sources to support or improve:

- Organizational policy development;
- Decision-making;
- Management and administration;
- Program and/or project management and administration; and/or
- Research and development (R&D) activities.

"Advisory and assistance services" can also mean the furnishing of professional advice or assistance rendered to improve the effectiveness of Federal management processes or procedures (including those of an engineering and technical nature) and may take the form of information, advice, opinions, alternatives, analyses, studies, evaluations, recommendations, training, and the day-to-day aid of support personnel need for the successful performance of ongoing Federal operations. Included are efforts that support or contribute to improved organization of program management, logistics management, project monitoring and reporting, data collection, budgeting, accounting, performance auditing, and administrative technical support for conferences and training programs. Also included are contracted services that provide organized, analytical assessments/evaluations in support of policy

development, decision-making, management, or administration, and acquisitions of models, methodologies, and related software supporting studies, analyses or evaluations.

“Advisory and assistance services” **do not include**:

- Routine information technology services unless they are an integral part of a contract for the acquisition of advisory and assistance services;
- Architectural and engineering services as defined in the Brooks Architect-Engineers Act (40 U.S.C. 1102);
- Research on theoretical mathematics and basic research involving medical, biological, physical, social, psychological, or other phenomena.

“Advisory and assistance services” **shall not be** –

- Used in performing work of a policy, decision-making, or managerial nature which is the direct responsibility of agency officials;
- Used to bypass or undermine personnel ceilings, pay limitations, or competitive employment procedures;
- Contracted for on a preferential basis to former Government employees;
- Used under any circumstances specifically to aid in influencing or enacting legislation;
- Used to obtain professional or technical advice which is readily available within the agency or another Federal agency.

- b) “**Certain Other Professional Services**” means any program management and acquisition support services. “Certain Other Professional Services” do not typically include operational or support services such as security or guard service, architect and engineer services, janitorial, grounds keeping services, repair services, software development, systems operations and support, or network management support.
- c) “**Requesting Activity**” means the program unit within the Agency or staff office that has the need for the advisory and assistance service or other applicable professional service.

4. POLICY

It is the policy of the Department that agencies acquiring advisory and assistance services shall comply with Subpart 37.2 of the FAR and this supplemental guidance.

5. RESPONSIBILITIES

- a) **Requesting Activities**, through their Head of Contracting Activity Designee (HCAD), shall submit the information required in the template (Attachment A) prior to any proposed award for advisory and assistance services or certain other applicable professional services exceeding \$500,000. The HCAD is responsible for submitting the required documentation, with signatures, to the Chief, Procurement Policy Division (PPD). All submissions shall be emailed to Todd.Repass@da.usda.gov, and Corrine.Shipman@da.usda.gov.
- b) **Chief, Procurement Policy Division (OPPM/PPD)** is responsible for reviewing the submission for completeness and routing the documentation to the Acting Deputy Assistant Secretary for Administration, and the Deputy Chief of Staff, Office of the Secretary, for review. The PPD Chief will notify the HCAD when the review is complete or will request additional information from the activities for action or resubmission, if needed. **No award shall be made prior to completion of this review process.**

6. SUBMISSION DEADLINES

Initial submission of a proposed contract award under this AGAR advisory should be submitted as soon as identified and, at a minimum, 10 business days prior to any proposed award. Agencies are encouraged to submit this information as early in the acquisition planning process as possible.

If you have questions regarding this advisory, please contact Todd Repass, Chief, PPD via email at Todd.Repass@da.usda.gov or by phone at (202) 690-1060; or Corrine Shipman via email at Corrine.Shipman@da.usda.gov or by phone at (202) 690-0015.

This advisory is available on the USDA procurement homepage at <http://www.da.usda.gov/procurment/index.html>

EXPIRATION DATE: Feb 27th, 2010

Attachment A

**ADVISORY AND ASSISTANCE SERVICES
CERTAIN PROFESSIONAL SERVICES**

| | |
|---------------------------------|----------------------|
| Project Name: | |
| Agency/Office: | Name: |
| | Address: |
| | Agency Identifier #: |
| Agency Point of Contact: | Name: |
| | Email Address: |
| | Telephone Number: |
| Contracting Officer: | Name: |
| | Email Address: |
| | Telephone Number: |

Please include the following information:

1. **Description:** Please include a description of the planned acquisition including major deliverables/services, and the name of the Agency program/project supported by the acquisition.
2. **Amount:** List the Estimated Dollar Amount (inclusive of all options).
3. **Funding:** Provide proposed funding method including fund type and year of funds. Please specify if recovery funds from the American Recovery and Reinvestment Act of 2009 are being used.
4. **Schedule:** Provide the Period of Performance/Delivery Schedule and estimated award date. Include option periods, quantities or items, if applicable.
5. **Contracting Method:**
 - a) **Solicitation type** (e.g., sealed bid (IFB), negotiated (RFP), request for proposals under a multiple award contract or Federal Supply Schedule, interagency agreements).
 - b) **Small Business Program Considerations:**
 - (i) Include information on small business set-asides and programs considerations (e.g., 8(a) competitive, 8(a) non-competitive, small business set-aside, HubZone set-aside,

Service Disabled Veteran owned small business, women-owned small business, etc.).

- (ii) If the acquisition was unrestricted, provide a rationale and address market survey(s) conducted.
 - (iii) Has Office of Small and Disadvantaged Business Utilization (OSDBU) approval form AD-1205, “USDA Small Business Program - Procurement Request Review” been completed, if required? *If yes, attach a copy of the signed form.*
 - c) **Extent of competition** (e.g., full and open competition, full and open competition after exclusion of sources, other than full and open competition pursuant to FAR Subpart 6.3, competition under Federal Supply Schedule, sole source set-aside, brand name specified under FSS, GWAC, multiple award or other indefinite delivery type contracts.)
 - (i) *For brand name specific order*, attach a copy of the justification as required by FAR 11.105.
 - (ii) *For other than full and open competition* pursuant to FAR Part 6.3, attach a copy of the approved justification for other than full and open competition.
 - (iii) *For a sole-source procurement*, include a separate sole-source statement explaining why there is no other source capable of providing the required services.
 - (iv) *Performance Based*: If the contract is not performance based, provide a rationale.
 - d) **Contract Type** (see FAR part 16) including pricing structure. If recovery funds from the American Recovery and Reinvestment Act of 2009 are being used and the planned contract type is other than firm, fixed price, please explain.
 - e) **Contract Users/Ordering Offices**: Identify authorized contract users. For indefinite delivery type contracts, identify authorized ordering offices.
6. **Determination**: Has the determination required by FAR 37.204, regarding availability of personnel, been made?
7. **Conflict of Interest**: Include a brief statement regarding any possible basis, or lack thereof, of a conflict of interest or appearance of a conflict of interest.
8. **Continuing Requirement**: If the acquisition is a continuing requirement, what is the current contract/order number(s), contractor(s) name and address and expiration date(s)?
9. **Other Issues**: Include any other acquisition issues of note.

SUBMITTED FOR REVIEW:

Signature
Name (Type or Print):
Program Manager / Project Manager

Date

Signature
Name (Type or Print):
Contracting Officer

Date

Signature
Name (Type or Print):
HCA or HCAD

Date